

STATE OF MICHIGAN
COURT OF APPEALS

BETTY L. BROWN,

Plaintiff-Appellee,

v

WALTER A. BROWN,

Defendant-Appellant.

UNPUBLISHED

January 16, 1998

No. 198103

Oakland Circuit Court

LC No. 95-502136 DO

BETTY L. BROWN,

Plaintiff-Appellant,

v

WALTER A. BROWN,

Defendant-Appellee.

No. 198430

Oakland Circuit Court

LC No. 95-502136 DO

Before: Griffin, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Plaintiff and defendant both appeal as of right, challenging several provisions of the parties' September 19, 1996, judgment of divorce entered by the trial court. We remand in order for the trial court to make the requisite findings of fact pursuant to MCR 2.517(A) in support of its dispositional ruling.

The parties were married on February 8, 1968, and no children were conceived during the marriage. Plaintiff has four sons from a previous marriage, and defendant has two sons and a daughter from a previous marriage. Plaintiff filed for divorce on August 3, 1995. A judgment of divorce was entered on September 19, 1996.

On appeal, both parties allege several grounds of reversible error. As a preliminary matter, the parties complain about the adequacy of the trial court's factual findings in this matter. They contend that the findings of fact are not sufficient enough to permit this Court to engage in a thorough appellate review of the fairness of the property distribution. Both parties alternatively challenge the trial court's findings of fact as being clearly erroneous in light of the evidence produced at trial. The parties claim that the property division as ordered by the trial court was unfair and inequitable. Plaintiff protests the trial court's decision not to award alimony, other than a \$5000 lump sum award. Defendant contends that the trial court's decision to award the marital home and all of its contents therein to plaintiff is unfair and inequitable.

In deciding a divorce action, the trial court must make findings of fact and dispositional rulings. MCR 2.517(A); *Magee v Magee*, 218 Mich App 158, 161; 553 NW2d 363 (1996). On appeal, the factual findings are to be upheld unless they are clearly erroneous. *McDougal v McDougal*, 451 Mich 80, 87; 545 NW2d 357 (1996). A dispositional ruling will be affirmed unless this Court is left with the firm conviction that it was inequitable. *Id.*

Findings of fact regarding matters contested at a bench trial "are sufficient if they are '[b]rief, definite, and pertinent,' and it appears that the trial court was aware of the issues in the case and correctly applied the law, and where appellate review would not be facilitated by requiring further explanation. MCR 2.517(A)(2)." *Triple E Produce Corp v Mastronardi Produce Inc*, 209 Mich App 165, 176; 530 NW2d 772 (1995). Minimally, the findings of fact must indicate to the reviewing court the factual basis for the ultimate conclusion:

[I]t is not the function of this [appellate] court to search the record and analyze the evidence in order to supply findings which the trial court failed to make. Nor do we intimate that findings must be made on all of the enumerated matters or need be made on no others; the nature of the evidentiary findings sufficient and appropriate to support the court's decision as to fairness or unfairness is for the trial court to determine in the first instance in the light of the circumstances of the particular case. We hold only that there must be findings, stated either in the court's opinion or separately, which are sufficient to indicate the factual basis for the ultimate conclusion. [*Kelley v Everglades Drainage District*, 319 US 415, 421-422; 63 S Ct 1141; 87 L Ed 1485 (1943).]

In the instant case, the trial court noted that it had listened carefully to the testimony of the parties and "made certain determinations in my mind insofar as what's taken place over the period of years, and who has already benefited as a result of what did take place." The trial court also noted that it had taken everything into consideration, including the physical health and condition of the parties. Unfortunately, the trial court did not articulate its thoughts regarding these factors on the record. Instead, the trial court, in a brief oral ruling from the bench, bypassed the fact finding requirement and made a dispositional ruling, summarily distributing the disputed properties between the parties without explanation. The dearth of specific findings of fact, indicating why the trial court chose to divide the marital estate in this particular manner, precludes meaningful appellate review. *McNamara v McNamara*, 178 Mich App 382, 391-392; 443 NW2d 511 (1989), mod on other grounds, 436 Mich 862; 460 NW2d (1990). We cannot address any of the issues raised on appeal by the parties without

the pertinent findings which form the basis of and explain the trial court's dispositive action. Under these circumstances, a remand for further fact finding is appropriate. *McNamara*, supra; *Beaty v Beaty*, 167 Mich App 553, 556; 423 NW2d 262 (1988).

We therefore remand this case to the trial court for articulation of its findings of fact as required by MCR 2.517(A) and any resultant reconsideration of its prior dispositional ruling in light of these factual findings. We do not retain jurisdiction. No costs, neither party having prevailed in full.

/s/ Richard Allen Griffin

/s/ David H. Sawyer

/s/ Peter D. O'Connell